Robert B. Van Wyck 1 Bar No. 007800 Chief Bar Counsel STATE BAR OF ARIZONA 3 4201 N. 24th St., Suite 200 4 Phoenix, AZ 85016-6288 602-340-7241 5 6 7 IN THE SUPREME COURT 8 STATE OF ARIZONA 10 11 Supreme Court No. R-07-0002 PETITION TO AMEND RULE 35, 12 ARIZONA RULES FAMILY LAW Comment of the State Bar of 13 Arizona in Opposition to Petition to **PROCEDURE** 14 Amend Rule 35 of the Arizona Rules of Family Law Procedure 15 16 17 18 The State Bar of Arizona, pursuant to Rule 28, Arizona Rules of the 19 Supreme Court, hereby files the following comment in opposition to petition 20 R-07-0002, regarding the proposed amendment of Rule 35, Ariz. R. Fam. L. 21 22 Proc. 23 24

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Comment and Recommendation

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The State Bar of Arizona recommends that the proposed amendment of Rule 35 be rejected in its entirety. The proposed amendment is too sweeping, and it will produce unintended (and undesirable) consequences that the petitioner may not have considered. First, the rule would cut both ways, which means that a pro se litigant who wanted a quick (even indisputably fair) interim order right there in the courtroom would have to wait to file a written motion of his or her own - which poses its own set of bewildering complications for nonlawyers. Second, the restrictions this rule would impose on the ability of the judge to issue reasonable orders in response to an oral demand far outweigh the virtue of "getting everything in writing." Attorneys who frequent the courtrooms in a variety of different situations have all encountered situations where it made sense to fix a problem on the record, and where a written motion would only waste time and perhaps even cause additional problems. Third, like it or not, good or bad, pro se litigants are presumed to understand the laws and procedures applicable to their case, and they are held to the same standard as attorneys. This rule indirectly cuts against that policy and rewards parties who did not educate themselves about their matter before a hearing, and punishes those who prepared. Fourth, the superior court is a court of record. If errors are made, then they are preserved in written or electronic form. They can be addressed at the same leisure that this petitioner would seek to respond to a written motion.

RESPECTFULLY SUBMITTED this 1st day of April 2008. Robert B. Van Wyck Chief Bar Counsel STATE BAR OF ARIZONA Electronic copy filed with the Clerk of the Supreme Court of Arizona this 1st day of April 2008.